

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

LESTER BAIN, #B-82296,

Plaintiff,

V.

FRANK WALKER, et al.,

Defendant.

Case No. 03-cv-397-JLF

ORDER

This matter is before the Court on the Motion for Extension of Time to File Responsive Pleadings (Doc. 14) filed by the plaintiff, Lester Bain, on December 17, 2004, the Motion for an Extension of Time to File a Responsive Pleading (entitled “Motion for Extension of Time”) (Doc. 20) filed by Bain on January 24, 2005, and the Motion for Production of Documents (Doc. 23) filed by Bain on February 16, 2005.

Motions for Extension of Time to File Responsive Pleadings

Bain has filed two motions for Extension of Time. (Docs. 14 and 20). The first Motion for Extension of Time to File Responsive Pleading (Doc. 14) is granted. Bain filed his responsive pleading on January 18, 2005. The second Motion for Extension of Time to File a Responsive Pleading (entitled “Motion for Extension of Time”) (Doc. 20) is granted. Bain filed his responsive pleading on February 11, 2005.

Motions For Production of Documents

The Court is construing Bain’s Motion for Production of Documents as a motion to compel discovery. The Court will not compel a party to respond to discovery requests until the plaintiff has first served the discovery requests on the defendants pursuant to Federal Rule of

Civil Procedure 34. Once a request for discovery is made, the party serving the request must wait 30 days, after service, for a response prior to seeking a court order. It is obvious from the motion that Bain has not first sought discovery from the defendants prior to seeking a court order. For this reason, the motion must be denied.

Moreover, at this juncture Bain's request is out of time. The Trial Practice Schedule in this case, entered on August 13, 2004, ordered that discovery shall be completed by February 14, 2005. Even if Bain had sent the request to the defendants, it still would have been untimely. Bain has not provided good cause to extend the deadline. Additionally, even if the request were timely, Bain's requests are overbroad. Finally, Bain requests documents from parties that have either been dismissed from the lawsuit or who are not part of the lawsuit. Discovery from third parties can only be sought with a subpoena pursuant to Federal Rule of Civil Procedure 45. Bain has failed to do this. Additionally, for these reasons, the motion to compel is denied.

For the foregoing reasons, the Motion for Extension of Time to File Responsive Pleadings (Doc. 14) is **GRANTED**, the Motion for an Extension of Time to File a Responsive Pleading (entitled "Motion for Extension of Time") (Doc. 20) is **GRANTED**, and the Motion for Production of Documents (Doc. 23) is **DENIED**.

DATED: May 16, 2005.

s/ Donald G. Wilkerson
DONALD G. WILKERSON
United States Magistrate Judge